

## II. Remarks

Reconsideration and re-examination of this application in view of the above amendments and the following remarks is herein respectfully requested.

Claims 1 and 3-35 remain pending. Claims 1, 3, 9, 10, 26, 29, and 30 have been amended and claim 2 has been cancelled.

### *Claim Rejections - 35 U.S.C. §103(a)*

The Examiner rejected claims 1, 3-8, 11-125, and 31-35 are rejected under 35 U.S.C. §103(a) as being unpatentable over either U.S. Patent No. 6,068,589 to Neukermans (Neukermans), U.S. Patent No. 5,531,787 to Lesinski et al. (Lesinski '787) or U.S. Patent No. 5,984,859 to Lesinski et al. (Lesinski '589) in view of either U.S. Patent No. 5,509,280 to Zavracky (Zavracky), U.S. Patent No. 5,081,437 to Mosser et al. (Mosser) or U.S. Patent No. 5,259,248 to Ugai et al. (Ugai).

Further, the Examiner rejected claims 2, 9, 10, and 26-30 under 35 U.S.C. §103(a) as being unpatentable over either U.S. Patent No. 6,068,589 to Neukermans (Neukermans), U.S. Patent No. 5,531,787 to Lesinski et al. (Lesinski '787) or U.S. Patent No. 5,984,859 to Lesinski et al. (Lesinski '589) in view of U.S. Patent No. 5,509,280 to Zavracky (Zavracky).

Claim 1 has been amended to include the limitations of claim 2, defining the sensor as a capacitive sensor. The Examiner contends that Neukermans, Lesinski '787 or Lesinski '589 can be combined with Zavracky to teach an implantable micromachined capacitive sensor. In the rejection of claim 2, the Examiner relied on Zavracky stating it "explicitly teaches a micro-

fabricated sensor that is operative as a capacitive type sensor.” Applicants respectfully disagree.

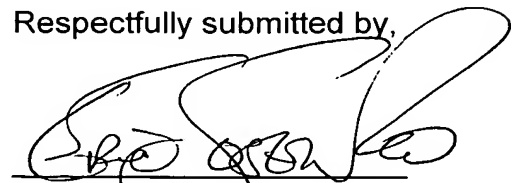
Zavracky teaches an optical sensor, not a capacitive sensor. Zavracky uses capacitive principles to actively displace a membrane or diaphragm that acts as a mirror for an optical sensor. Zavracky does not teach a sensor that “senses a capacitance corresponding to a physiologic parameter”, as provided in claim 1. In addition, the Examiner has indicated, in the previous office action, that Neukermans, Lesinski '787 and Lesinski '589 does not teach that the sensor is a capacitive type sensor. Therefore, Zavracky cannot be combined with Neukermans, Lesinski '787 or Lesinski '589 to teach or suggest the present invention.

Claims 3-35 depend, directly or indirectly, on claim 1 and are, therefore, patentable for at least the same reasons given above in support of claim 1. Accordingly Applicants respectfully request withdraw of the rejections under 35 U.S.C. §103(a).

#### *Conclusion*

In view of the above amendments and remarks, it is respectfully submitted that the present form of the claims are patentably distinguishable over the art of record and that this application is now in condition for allowance. Such action is respectfully requested.

Respectfully submitted by,



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